

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

MICHAEL HICKS, on his own behalf and
others similarly situated,

Plaintiff,

Case No.: 1:13-cv-01912-TWT

vs.

BRANDSMART U.S.A. of GEORGIA,
LLC, a Limited Liability Company

Defendant. _____/

NOTICE OF DISMISSAL WITH PREJUDICE

The Plaintiffs through their undersigned counsel, stipulate to dismissal with prejudice pursuant to Rule 41(a)(1)(A)(ii), Fed.R.Civ.P. See *Anago Franchising, Inc. v. Shaz, LLC*, 677 F.3d 1271 (11th Cir. 2012) (Wilson, J.) (“District courts need not and may not take action after the stipulation becomes effective.”). Plaintiff stipulates that the Defendant has offered and agreed to pay Plaintiffs an amount that exceeds the amount of overtime and other wages that Plaintiffs claim are owed under the Fair Labor Standards Act (“FLSA”) and sought in this civil action, plus an equal amount in liquidated damages. Defendant has also agreed to pay separately negotiated attorneys’ fees and costs to Plaintiff’s attorneys in an amount that Plaintiffs agree is reasonable. Consequently, Plaintiffs believe that approval pursuant to *Lynn’s Food Stores, Inc. v. United States*, 679 F.2d 1350 (11th Cir. 1982) and *Martin v. Huddle House, Inc.*, Civil Action No. 2:10-CV-0082-WCO, 2011 WL 611625 (N.D. Ga. Feb. 11, 2011) is not required because Plaintiffs have not compromised their damages or liquidated damages claims. Plaintiffs agree that, subject to enforcement of their Agreement, their case is

moot. See *Genesis Healthcare Corporation v. Symczyk*, 133 S.Ct. 1523 (April 16, 2013) (indicating that when an FLSA plaintiff acknowledges that his/her case is moot, there is no justiciable action).

Respectfully submitted this 12th day of December, 2013.

Sincerely,

/s/CECILIA M. BARBER
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Trial Counsel for Plaintiff

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this document was filed on this 12th day of December, 2013, using the CM/ECF system which will send a copy to all counsel for Defendant.

/s/ Cecilia M. Barber, Esq.
Cecilia M. Barber, Esq.